

**STATE OF MARYLAND
STATE LABOR RELATIONS BOARD**

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| In the matter of: |) | |
| |) | |
| Maryland Classified Employees |) | Case No. 08-U-05 |
| Association, Inc. |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | |
| State of Maryland, Department of |) | |
| Budget and Management |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

STATE LABOR RELATIONS BOARD RULING ON
AFSCME'S MOTION TO INTERVENE

On November 14, 2007, the Maryland Classified Employees Association, Inc. (MCEA) filed an unfair labor practice complaint before the Maryland State Labor Relations Board (SLRB), pursuant to COMAR § 17.07.05. In that complaint, MCEA alleged that the Department of Budget and Management (DBM) violated State Personnel and Pensions § 3-301(a)(1) and § 3-306(a)(1), when it denied MCEA access to Division of Corrections ("DOC") training academies and all county health departments, to participate in new employees orientations, health fairs and training for state employees. Although MCEA acknowledges that it is not the exclusive bargaining representative for the employees, MCEA asserts that it has long been permitted to make brief presentation to such employees, and it has an on-going interest in representing state employees in matters other than negotiation and administration of a Memorandum of Understanding.


AFSCME Maryland (AFSCME) has filed a motion to intervene in this case, pursuant to SLRB regulations, found at COMAR § 14.32.02.05. As the certified exclusive representative for bargaining unit employees in State Units A, B, C, D, F, and H, AFSCME asserts that it is a "party in interest," for purposes of intervention. AFSCME maintains that it has standing to intervene because MCEA's complaint constitutes a "direct assault" on AFSCME's status as the exclusive bargaining representative. AFSCME cites Court of Appeals law establishing a "low threshold" for allowing a party to intervene in an administrative proceeding. See *Sugarloaf v. Department of Environment*, 344 Md. 271, 286 (1996).

This Board finds that AFSCME's request to intervene is appropriate, and therefore grants its motion. COMAR § 14.32.02.05(A) states that: "Any potential intervenor with standing may

request intervention as an interested party in any proceeding before the Board.” Moreover, COMAR § 14.32.02.05(C) states that “[t]he presiding hearing officer may, on its own motion or the motion of any party, order the addition of other parties.”

Admittedly, the regulations do not shed much light on the standards to be applied to determine whether a party requesting intervention has “standing” to do so. However, as AFSCME notes, the Court of Appeals has held that there is a low threshold for establishing a party as an intervenor. See *Clipper Windpower, Inc. v. Sprenger*, 399 Md. 539, 559 (2007) (“one may become a party to an administrative proceeding rather easily.”) (quoting *Dorsey v. Bethel A.M.E.*, 375 Md. 59 (2003) and *Sugarloaf v. Department of Environment*, 344 Md. 271, 286 (1996)). Indeed, all one must do to become an interested party in an administrative proceeding is to show up and participate in the hearing.¹ See *id.*

As the exclusive bargaining representative for the unit of employees at issue, AFSCME has certainly established that it has an interest in participating in this proceeding. We find merit in AFSCME’s assertion that it has an interest in addressing MCEA’s contention that it has been denied access to state employees, for purposes of disseminating information. In so finding, this Board is not, at this time, addressing the merits of AFSCME’s assertions that such a dissemination of information by a rival union is intended to undermine the legitimately elected exclusive bargaining representative.

 /ELS
Allen G. Siegel, Interim Chairman
On behalf of the State Labor Relations Board
January 9, 2008

¹ As the Court of Appeals noted in *Sugarloaf*:

“Bearing in mind that the format for proceedings before administrative agencies is intentionally designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party to the proceedings.” 344 Md. at 286-87, 686 A.2d at 613 (internal quotations omitted).